

Congress of the United States
Washington, DC 20515

March 14, 2008

VIA FACSIMILE- 202-693-6111

The Honorable Elaine Chao
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Secretary Chao:

We write to express our serious disappointment in the Department of Labor's January 2008 study, "Impact of Increased Minimum Wages on the Economies of American Samoa and the Commonwealth of the Northern Mariana Islands." Although Congress specifically directed the Department to issue this report to assess the impact of wage increases on living standards and employment rates in these territories, the Department's study does not adequately address these issues. In fact, the Department's report was poorly researched and in, many respects, fundamentally flawed. It ignored at least half of the Congress's clear instructions. An incomplete and unreliable report of this nature hinders, rather than assists, the Congress's policymaking process.

As you know, in May 2007, Congress passed and the President signed Public Law 110-28, enacting the first federal minimum wage increase in more than 10 years, and also raising the minimum wage rates for workers in American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI). Until then, the CNMI had been entirely excluded from coverage by federal minimum wage laws. American Samoa had been operating under a Special Industry Committee provision of the Fair Labor Standards Act, which effectively had raised territorial minimum wages to the federal level in other territories but had not done so in American Samoa.

Under the new law, in both American Samoa and the CNMI, the minimum wage increased by 50 cents in July 2007, and will rise 50 cents annually thereafter until those wage rates reach the federal minimum wage rate.

To better understand how these wage increases will affect the working families and the economic future of American Samoa and the CNMI, and to inform any future policy decisions that are of critical importance to these two American territories, the law required the Secretary of Labor to "conduct a study to . . . assess the impact of the wage increases" and "project the impact of any

The Honorable Elaine Chao
March 14, 2008
Page 2

further wage increase” on (1) “living standards” and (2) “rates of employment in American Samoa and the [CNMI].”

The Department has delivered to Congress a report that purports to respond to this statutory requirement. The report, however, fails to comply with Congress’s clear instructions, and with basic standards of economic and policy analysis, in several respects.

First, despite the unambiguous statutory direction, the report makes no attempt to evaluate the impact of the July 2007 50-cent wage increase or future increases on the living standards of working families in American Samoa and the CNMI. As a result, the report entirely fails to address one of the main issues that Congress required the Department to assess, thereby depriving the people of American Samoa and the CNMI of the full information that they deserve.

Second, the report is decidedly one-sided. The Department interviewed a limited number of government officials, business representatives, and industry lobbyists. While these perspectives are certainly important, they are by no means the only viewpoints that the Department should have sought. The authors of the report did not obtain the views of workers, their non-governmental advocates, or organizations such as social services or churches that interact with working families on a regular basis. This is an incredible oversight in a report on the impact of a labor policy on living standards and employment. In addition, the Department does not seem to have considered any factors that would complicate the simple picture presented in the report of the two economies. Soliciting the views of a wider range of business owners, government agencies, workers, and civil society organizations would have provided a far more comprehensive and informative portrayal of economic conditions and the impact of the minimum wage increases.

Third, the report failed to independently verify assertions and speculative statements made by business representatives, and instead simply recorded and repeated their claims. In the case of American Samoa, for example, your Department had access to a long record of canneries’ testimony before the Special Industry Committees that *any* increase in the minimum wage would result in a curtailment of employment. Given that this testimony is directly contradicted by the fact that the canneries have reported *no* discernible job losses in the wake of the July 2007 wage increase of 50 cents – the largest single increase in the history of American Samoa – the claims of future job losses due to future increases and the stated bases for such claims should have been carefully scrutinized. Yet the Department uncritically took the canneries’ forward-looking claims at face value. We are confident that deeper probing by the Department into other cannery statements about the impact of minimum wage increases would have revealed further apparent contradictions warranting, at the very least, some further investigation. Moreover, it appears that the Department did not request the appropriate data on profitability from the major employers in either territory to independently test whether further minimum wage increases would likely cause

closures or layoffs. It is unacceptable that the report fails to test or evaluate the assertions made by parties that have direct and significant interests in the outcome of the report.

Fourth, we are concerned that the Department failed to generate any new data on wage levels, cost of living, or employment conditions in American Samoa and the CNMI. The Department, for example, could have attempted to gather wage and employment data directly from workers and worker advocates to determine whether the new minimum wage is actually being paid, and to evaluate the impact of the new wages on workers' living standards and rates of employment. While the report blames the requirements of the Paperwork Reduction Act for the Department's failure to conduct any meaningful surveys, it does not appear that the Department even attempted to obtain expedited processing of a survey approval from the Office of Management and Budget. The people, businesses, and governments of these two Pacific territories have a right to expect that the Department of Labor would make every effort to fully inform the Congress of their present economic circumstances. Regrettably, the Department failed to undertake such an effort.

Fifth, we are troubled by reports that the Department failed to utilize the most up-to-date information within its own possession. The report uses employment numbers from the Wage and Hour Division's "Economic Report: The Minimum Wage in American Samoa, 2007." Yet we understand that more recent numbers were given to the Wage and Hour Division months before the report was issued, in an addendum from the American Samoa Department of Commerce. Your report failed to use that addendum and its updated numbers or to otherwise explain why they were not being used.

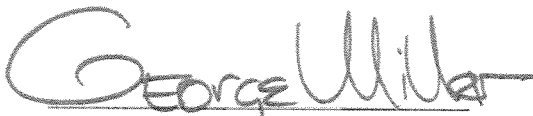
Sixth, while data shortfalls were to be expected given the status of data collection in the territories and the limited time to conduct the study, the Department's report fails to identify all of the relevant data shortfalls, as Congressional staff had requested, so that Congress would know how to focus its evaluation of the report and its subsequent inquiry. A few shortfalls were noted, but further shortfalls would have been made obvious by further research, or by a visit to the territories, or by simple consideration of the impact of the wage increases on the standards of living. For example, because the report ignored the standards of living inquiry altogether, it failed to identify what data are available on the true cost of living in the territories and whether minimum wage increases would affect the ability of workers to meet those costs. The report failed to identify what data would be necessary to determine when and whether any particular business in either territory would reduce employment because of a minimum wage increase. The report also failed to identify what data are available or otherwise needed to determine how the workers receiving the minimum wage increases spent the increases, and how such data might reveal impacts on standards of living or rates of employment.

Honorable Elaine Chao
March 14, 2008
Page 4

Seventh, while the law specifically required that the Department conduct this study through the Bureau of Labor Statistics (BLS), there is no indication in the report that BLS was consulted in any significant way. BLS could have provided assistance in quality control, reviewing the work product, designing surveys, ensuring that appropriate questions were asked, and identifying all of the relevant data shortfalls. The expertise of BLS on economic data was neglected, and the report suffers for it.

This report fails to provide Congress with a complete, meaningful, and reliable analysis of an issue critical to the working families of American Samoa and the CNMI. Clearly, the Department was legally required to do far more than this report bothers to do, and the people of these territories deserve far more attention and care than the Department has afforded them.

Sincerely,



GEORGE MILLER

Chairman

U.S. House Committee on Education
& Labor



EDWARD M. KENNEDY

Chairman

U.S. Senate Committee on Health,
Education, Labor and Pensions